

## **OPEN BURNING PERMIT ORDINANCE**

WHEREAS, it is determined that the public health and safety of the residents of the Town of Ellington and the protection of their property require the regulation of Open Burning in town; and

WHEREAS, the Connecticut General Statutes have authorized the municipality to regulate open burning and issuance of local permits.

The following Ordinance is hereby adopted:

### **1.0 Scope**

- 1.1 This ordinance shall be applicable to the entire town.
- 1.2 This ordinance shall apply to all lands, public and private.
- 1.3 Nothing within this Ordinance shall be construed as restricting the duties and responsibilities of the open burning official as may be prescribed by the general statutes or the Commissioner of Environmental Protection.

### **2.0 Definitions**

- 2.1 *Open Burning*- shall include fires for the control or destruction of BONA FIDE disease and pests, agricultural burning or vegetation management on farms; fires by any resident to dispose of brush on the property where he resides; fires for fire department training; fires authorized by the Fire Marshal at the town landfill or transfer station; clearing of vegetative debris following a natural disaster; fire breaks; habitat or ecological sustainability on municipal property or on privately owned property permanently dedicated as open space and shall include no other fires.
- 2.2 *Permitted Fire*- shall include any fire that has been properly authorized by the open burning official and/or the Fire Marshal and shall also include any other type of fire authorized by Section 4.0.

- 2.3 *Non-permitted Fire*- shall include any type of fire requiring approval or authorization as required in Section 4.0 but not having such approval or authorization; this shall include any fire deemed a hazard or nuisance as provided for in Section 4.0.
- 2.4 *Fire*- shall be a general term referencing all of the types of open outside fires and shall not be construed to include any type of fire normally kindled within a structure.
- 2.5 *Open Cooking Fire*- shall include all types of cooking fires kindled outside on single or two family property.
- 2.6 *Enclosed Cooking Fire*- shall include charcoal, gas or wood fires in containers carrying recognized testing laboratory listing, acceptance or approval and constructed for the obvious and express purpose of cooking.
- 2.7 *Permittee*- shall include any person to whom an open burning permit has been issued, any person authorized by the *Fire Marshal* to kindle a fire, and any agent thereof.
- 2.8 *Responsible Person*- shall include the Permittee and those persons designated or allowed by the Permittee to kindle or maintain any fire under the provisions of this Ordinance and all of whom shall be considered agents of the Permittee.
- 2.9 *Fire Marshal*- shall include the Fire Marshal and any Deputy Fire Marshal or inspector.
- 2.10 *Open Burning Official* - the official appointed by the Board of Selectman to administer this Ordinance and open burning regulations of Department of Environmental Protection.

### **3.0 Administration**

3.1 The Board of Selectman may designate one or more special annually recurring periods when open burning may be permitted under the open burning ordinance, there being no permitted burning during non-designated times.

3.1.1 Subject to 3.1, above, the Open Burning Official may designate certain days and times as being those periods during which application may be made for an open burning permit.

3.2 Any violation of Section 4 of this Ordinance shall be sufficient reason to deny any future application from the violator or from any other person acting as an agent of the violator for an open burning permit as issued by the Open Burning Official or for approval as granted by the Fire Marshal.

3.3 The fire marshal or any fire officer having jurisdiction, after having been made aware of a particular open fire and having satisfied himself as to the circumstances and applicable requirements, shall cause any fire not specifically permitted in Section 4.0, or any fire deemed a hazard or nuisance, to be immediately extinguished as a non-permitted fire and may summon the fire service to accomplish this extinguishment.

3.4 Any fire officer who orders any fire to be extinguished shall cause the fire marshal to be immediately notified and shall provide sufficient details so as to assist the fire marshal in determining the need for investigation.

3.5 Upon receipt of any complaint concerning any open fire the fire marshal shall cause an investigation to be made to determine the validity of the complaint and shall take enforcement action when deemed appropriate.

3.6 The fire marshal shall assume responsibility for notifying the open burning official when enforcement action is taken in those instances where an open burning permit was in effect.

- 3.7 The fire marshal shall institute procedures necessary to accomplish the requirement of obtaining fire marshal approval as required in Section 4.
- 3.8 A fee schedule shall be adopted by the Board of Selectmen for permit applications and may be amended as appropriate by that Board.

#### **4.0 Regulation**

- 4.1 No person shall kindle any fire within the town unless he has received a permit from the Open Burning Official for those fires defined in Section 2.1 or as further excepted at Sections 4.1.1, 4.1.2 and 4.1.3.
  - 4.1.1 An open cooking fire as defined at Section 2.5 or a campfire properly maintained and kindled in a proper container on single or two-family residential property and not containing pressure treated wood shall be permitted without any prior notice or approval.
  - 4.1.2 An enclosed cooking fire as defined in Section 2.6 properly attended on any property shall be permitted without any prior notice or approval except that such fires in forests and woodlands shall require Fire Marshal approval.
  - 4.1.3 Any other fire of any type on any and all types of property whatsoever shall require Fire Marshal approval.
- 4.2 Any fire shall be considered a non-permitted fire if it is determined to be a hazard or nuisance whether an open burning permit has been issued or Fire Marshal approval has been granted or whether it is within a stated exception.
- 4.3 Sufficient tools and equipment necessary to extinguish any fire of any kind whatsoever must be present and readily available and a responsible person, physically capable of using those tools and equipment, must be present and in control of any such fire.

- 4.4 The permittee or responsible person must be in physical possession of any written permit during the entire process of the open fire; said person must present any written permit or authorization to the fire marshal, fire officer or police officer upon request.
- 4.5 The permittee shall extinguish any permitted fire prior to leaving the proximate area of said fire for any reason whatsoever, or upon the order of the Fire Marshal, Open Burning Official, any fire officer or police officer.
- 4.5.1 Insufficient or unsuitable equipment or insufficient manpower to control any fire, a change to unfavorable weather conditions, a determination that the fire is a hazard or a nuisance, a change in the DEP forest fire index which would render the fire a violation, notice of an air pollution emergency, or any evidence of a type or magnitude of fire contrary to that which was specifically permitted or authorized or otherwise allowed by this Ordinance shall justify any order to extinguish such fire.
- 4.5.2 In lieu of any order to any person in charge of any fire to extinguish said fire, or, in the event of any refusal to comply with such an order, the fire department is authorized to extinguish said fire and shall immediately cause the fire marshal to be notified.
- 4.6 No permittee or responsible person shall allow a fire to extend in area beyond that which is specifically authorized or permitted or otherwise allowed.
- 4.7 No permittee or responsible person shall introduce or allow the introduction of any improper, unauthorized or otherwise illegal material into any open fire.

- 4.7.1 Proper, authorized and legal materials shall be limited to:
- 1) agricultural burning for vegetation management and for the prevention, control or destruction of diseases and pests;
  - 2) brush, the diameter of which is not greater than three (3) inches at the widest point;
  - 3) other materials for which the Commissioner of the Department of Environmental Protection has issued a permit, provided that the fire marshal also approves the burning of such materials.
- 4.8 The Permittee or responsible person shall be liable for any suppression costs that may reasonably be brought forth in the name of the Town of Ellington which were incurred as a result of any open fire.
- 4.9 No landowner shall knowingly allow, permit, authorize or encourage any type of non-permitted fire upon his property.
- 4.10 Any change in the DEP forest fire hazard index to "High" or greater shall cause any permit or authorization to be null and void without consideration of distance to woodland or grassland.
- 4.11 No DEP Open Burning Permit shall be issued to any resident for any open burning when such open fire would occur upon any property or premises regulated by the Fire Safety Code of the State of Connecticut unless such permit is approved by the fire marshal except this shall not be applicable to operating farms.
- 4.12 Violation of any condition set down as a part of any permit approval or other approval shall constitute a violation of this Ordinance.
- 4.13 No permit approval or other approval shall be granted for property not appearing to conform to the Ellington House Numbering Ordinance.

## **5.0 Enforcement; Penalty; Appeal**

5.1 Section 4 of this Ordinance shall be enforceable by the fire marshal and the policing agency having jurisdiction.

5.1.1 The fire marshal may develop citation forms suitable for use by that office and for that purpose.

5.1.2 The policing agency may utilize any forms they deem appropriate for that purpose.

## **6.0 Penalties**

6.1 Violation of this Ordinance shall be an Infraction as defined in CGS, Section 51-164m and 51-164n, as the same may be modified from time to time;

6.2 In the event that a greater penalty is specifically set forth in the Connecticut General Statutes, then the greater penalty shall apply.

6.3 Any person who violates any provision of the fire safety code shall be fined not less than \$200 nor more than \$1,000 or imprisoned not more than 6 months or both pursuant to CGS, Section 29-295, as the same may be amended from time to time.

Public Hearing held on June 18, 2001

Approved by Board of Selectman on June 18, 2001

Approved by Town Meeting on July 16, 2001

Advertised in Journal Inquirer on July 20, 2001

This Ordinance shall be effective on August 10, 2001